



October 19, 2000

Mr. Eugene D. Taylor
County Attorney
Williamson County
405 Martin Luther King Box 3
Georgetown, Texas 78626

OR2000-4080

Dear Mr. Taylor:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 140399.

Williamson County Emergency Medical Services ("EMS") received a request for the names, ages, sexes, and cities of residence of patients transported by EMS in connection with a motor vehicle accident that occurred on July 16, 1998. EMS claims that the identities of the patients are excepted from disclosure under section 552.101 of the Government Code. As you raise no exception to the required public disclosure of the patients' ages, sexes, and cities of residence, we assume that EMS has released that information to the requestor. *See* Gov't Code § 552.221(a); Open Records Decision No. 664 (2000). We have considered your arguments and the comments that the requestor submitted to this office.

Initially, we address EMS's failure to comply with section 552.301 of the Government Code in requesting this decision. Section 552.301 prescribes the procedures that a governmental body must follow in asking for an attorney general decision as to whether requested information is excepted from public disclosure. Section 552.301(b) provides that "[t]he governmental body must ask for the attorney general's decision and state the exceptions that apply . . . not later than the 10th business day after the date of receiving the written request." Section 552.301(e)(1)(D) provides that not later than the 15th business day after the date of the receipt of the information request, the governmental body must submit to this office a copy of the specific information requested, or representative samples of that information if a voluminous amount of information was requested. If the governmental body fails to request an attorney general decision as provided by section 552.301, the information

requested in writing is presumed to be subject to required disclosure and must be released, unless there is a compelling reason to withhold any of that information from the public. See Gov't Code § 552.302.

EMS received the request for the information in question on or about July 22, 1998. EMS did not request a decision from this office until August 15, 2000, and thus failed to comply with section 552.301(b). Furthermore, EMS failed to submit the information that it claims is excepted from disclosure under section 552.101, or a representative sample of that information, and thus also failed to comply with section 552.301(e)(1)(D). Therefore, the information in question is presumed to be public and must be released, unless there is a compelling reason to withhold any of that information from the public. Gov't Code § 552.302; see also *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 380-81 (Tex. App.--Austin 1990, no writ).

As a general rule, a governmental body can rebut the statutory presumption that the information in question is public by demonstrating that the information is deemed to be confidential under some other source of law or that the interests of third parties are at stake. See Open Records Decision No. 630 at 3 (1994). Thus, a showing that the information in question is excepted from disclosure under section 552.101 can overcome the presumption under section 552.302 that the information must be released. *Id.* In this instance, EMS claims that the names of the patients are confidential under section 552.101 in conjunction with section 773.091 of the Health and Safety Code. However, as EMS has not submitted the information in question to this office, we cannot consider the applicability of section 773.091 to that information. Thus, we have no basis for finding that a compelling reason exists to withhold any of the patients' names under section 552.101. Therefore, section 552.302 requires us to conclude that EMS must release the patients' names to the requestor. If EMS believes that the requested information is confidential and may not lawfully be released, then EMS must challenge this ruling in court as outlined below. We caution EMS that chapter 552 of the Government Code makes the release of confidential information a criminal offense. See Gov't Code §§ 552.101, .352.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general

have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

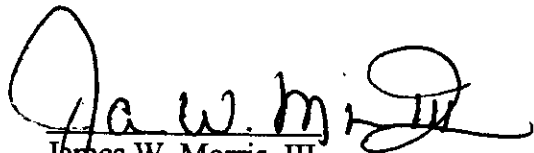
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in dark ink, appearing to read "J.W. Morris, III", is written over a horizontal line.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ljp

Ref: ID# 140399

Encl. Submitted documents

cc: Mr. Donald L. McAlister
Editor
The Daily Press
Blackland Publications Inc.
P.O. Box 1040
Taylor, Texas 76574
(w/o enclosures)